

Attorney Docket No.: F2044(C)  
Serial No.: 10/586,206  
Filed: January 11, 2008  
Confirmation No.: 4777

### **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

The claims have been amended to obviate the Examiner's rejections under 35 U.S.C. §112. The amended claims recite metes and bounds of the invention clearly and definitely. Consequently, it is respectfully requested that the rejection under 35 U.S.C. §112 be reconsidered and withdrawn.

The claims were rejected under U.S.C. §102, or in the alternative under U.S.C. §103, over Ganesan et al., WO 01/70038. Applicants' amended claim 1 makes clearer the distinction between Ganesan and the present invention. In the present invention, it is the product of the Ganesan reference, specifically the black tea obtained by withering, fermenting and firing black tea leaves, that is further treated according to the inventor process. The product of Ganesan's process is black tea and applicants' invention pertains to further processing of black tea. Ganesan is concerned with the preparation of black tea: a starting ingredient in applicant's invention, but the final product in Ganesan. Ganesan does not disclose treatment of black tea, the product of his process, with ascorbic acid or salt thereof. Consequently, it is respectfully requested that the anticipation rejection be reconsidered and withdrawn.

With respect to obviousness, there is no teaching in Ganesan et al. of a tea product obtained by further treatment of black tea by contacting black tea with ascorbic acid or salts thereof. Furthermore, Ganesan relates to a process for preparation of black tea that produces an end-product which is black tea. In fact, Ganesan teaches in claims 4 and 5 that the tea leaves are contacted with ascorbic acid or salts thereof prior to or during maceration. Therefore, Ganesan does not provide any hint, suggestion or motivation to one of ordinary skill in the art to prepare a tea product obtained by further treatment of black tea by contacting black tea with ascorbic acid or salts thereof.

The process of the present invention on the other hand uses black tea as a raw material which provides unexpected advantage over Ganesan in that the process of the

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present invention using black tea as a raw material can be carried out at a location far remote from the tea gardens, greatly increasing the process flexibility as indicated on page 2 lines 16-23 of the application. Furthermore, the data provided in Table 2 of the present application along with the discussion (page 10 lines 1-9 of the application) clearly demonstrates that treating black tea according to process of applicants' claim 1 (Example 1) gives significantly higher  $a^*$  values (denoting redder colour) as compared to black tea that is not contacted with ascorbic acid and hydrogen peroxide (Comparative Example A).

One of ordinary skill in the art, who has not had the benefit of hindsight afforded by the present disclosure, would not have been led by Ganesan to arrive at the present invention particularly in light of complete absence of any teachings in Ganesan of contacting black tea - the product of Ganesan process - with ascorbic acid.

The secondary documents cited, i.e. Abstract of JP-049719 and Maena et al. (JP 02-128669) do not remedy the deficiency of Ganesan et al. Consequently, it is respectfully requested that the obviousness rejection be reconsidered and withdrawn.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney kindly requests the Examiner to telephone at the number provided.

Respectfully submitted,  
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